(7) 1

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 341 OF 2002

PETITIONERS

1 FATTESING
S/o shri Aghori
R/o vill. Semra
Distt. & Tahsil-Bilaspur (CG)

2 RAMAYAN DAS
S/o shri Mangal Das
R/o vill. Semartal
Distt. & Tahsil-Bilaspur (CG)

3 RAO SAHEB
S/o shri Sukhan Chauhan
R/o vill. Khaira
Distt. & Tahsil-Bilaspur (CG)

4 LATEL RAM
S/o shri Lasru
R/o vill. Lakhram
Distt. & Tahsil-Bilaspur (CG)

5 MAHESH RAM
S/o shri Kunwar Singh
R/o vill. Madan pur
Distt. & Tahsil-Bilaspur (CG)

6 PARAS RAM
S/o shri Kangalu
R/o vill. Nipania
Distt. & Tahsil-Bilaspur (CG)

7 MOHIT RAM
S/o Shri Hori Ram
R/o vill. Mohra
Distt. & Tahsil-Bilaspur (CG)

8 ARJUN SINGH
S/o Shri Mohan Singh
R/o vill. Selar
Distt. & Tahsil-Bilaspur (CG)

P. R. No. 341/02
Presented by Shri A. D. Vaishnav
dated 12.2.02

VERSUS

RESPONDENTS: -

1 THE STATE OF CHHATTISGARH
Through-Secretary (Revenue)
Govt. of Chhattisgarh, Raipur

2 THE COLLECTOR, Bilaspur.

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11.2.02
CLERK TO A.G. BILASPUR

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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 341 of 2002

Petitioners — Fatte Sing and others

Versus

Respondents — The State of Chhattisgarh & others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri Ashok Das Vaishnav, Advocate for the petitioners.

Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents.

ORDER

(Passed on this 22nd day of February, 2007)

1. The case of the writ petitioners is that prior to 1950 the predecessors of the writ petitioners were in possession of some lands which are now in possession of the writ petitioners. It is further contended that the possession of the lands in question has been uninterrupted and continuous. The lands in question are clearly recorded in the Jamabandi i.e. revenue land record in the names of the predecessors of the writ petitioners. The petitioners are presently working as Kotwars. They are not claiming the said lands which are recorded in Jamabandi on the basis that they are Kotwars but on the basis that such lands have been granted by competent authority to the predecessors prior to 1950.
2. Learned counsel appearing for the petitioners submits that having been in continuous possession of the lands in question for such a very long time even on humanitarian consideration the petitioners should be given Bhumiswami rights. It is also further contented that in another case vide Writ Petition No. 2064 of 2000 disposed of on 3.5.2001 such direction was issued by this Court in respect of 36 Kotwars. Learned counsel for the petitioner further placed reliance on a decision of this Court in W.P.No. 2632/2000 (Chhabil Das & others Vs. The State of M.P. & another) passed on 30.10.2001. It is further contended that even otherwise village Kotwars are also entitled to get some lands as Kotwars.

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3. According to learned counsel for the petitioners a village Kotwar is entitled to ten acres of land. The petitioners are claiming possession of the lands recorded in revenue records as those lands were in possession of their predecessors who were also village Kotwars.
4. According to learned counsel for the petitioners the land in question is Mafi land and not service land. Learned counsel appearing for the respondents controverts this statement.
5. Be that as it may, it seems to me that the petitioners are claiming Bhumiswami rights over the lands which were granted to their predecessors prior to 1950 and the said lands were duly recorded in revenue records.
6. On perusal of the relevant documents placed before me and after hearing learned counsel of both sides, I am of the view that it will be just and fair that the competent authority shall consider the issue after affording proper opportunity of hearing to all the parties and pass appropriate order in regard to claim of the writ petitioners.
7. In the result, this petition is disposed of with the direction that the competent authority shall consider the case of the petitioners for grant of Bhoomiswami right, in accordance with law after affording proper opportunity of hearing to the concerned parties, within a period of three months from the date of receipt of a copy of this order. No order as to costs.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge